

### **REMARKS**

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-5 are currently pending. No claims have been amended, canceled, or added by this reply.

#### **Office Action Summary**

Claims 1-4 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,698,217 to Tanimoto et al. (hereafter “the ‘217 patent”) in view of U.S. Patent No. 6,767,524 to Zimmern et al. (hereafter “the ‘524 patent”); and Claim 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over the ‘217 patent in view of the ‘524 patent, further in view of U.S. Publication No. 2004/0112082 to Tanimoto et al. (hereafter “the ‘082 publication”).

#### **Rejection of Claims 1-5 under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejections of Claims 1-5, and submit that the ‘217 patent is not prior art with respect to the present application.

The present application claims priority to Japanese Patent Application No. 2002-094183, filed on March 29, 2002. In accordance with 37 C.F.R. §1.55(a)(4)(ii), enclosed please find an English translation of the certified copy of this application, along with a statement that the translation of the certified copy is accurate. It is respectfully submitted that the enclosed documents perfect the priority claim to Japanese Patent Application No. 2002-094183 under 35 U.S.C. §119. The filing date of Japanese Patent Application No. 2002-094183, March 29, 2002, antedates: the filing date of June 26, 2002, of the ‘217 patent; and the publication date of Jan 3,

DRA/GSD/jen

2003, of the '217 patent. Therefore, the '217 patent does not qualify as prior art with respect to the present application under 35 U.S.C. §§ 102(a), 102(b), and 102(e).

Consequently, it is respectfully submitted that the '217 patent does not qualify as prior art with respect to the present application under 35 U.S.C. §102. Accordingly, the '217 patent may not be applied under 35 U.S.C. § 103. As the only art rejections of record rely on the '217 patent, Applicants respectfully submit these rejections under 35 U.S.C. § 103 are all traversed, and request that these rejections be withdrawn.

Since Applicants have not substantively amended the pending claims in response to any rejection on the merits, a further rejection of these claims based on newly cited art references in the next communication **cannot properly be considered a Final Office Action.**

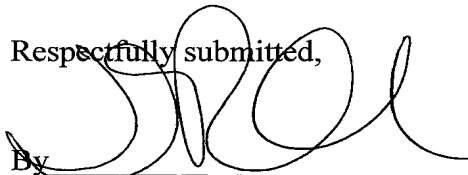
**Conclusion**

Consequently, in light of the above discussion, the present application is believed to be in condition for allowance. Should there be any outstanding matters that need to be resolved in the present application, the examiner is respectfully requested to contact George Dolina (reg. no. 63,654) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution of the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,



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